

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In Re: Methyl Tertiary	:	
Butyl Ether ("MTBE")	:	Master File C.A. No.
Products Liability Litigation	:	1:00-1898
	:	MDL 1358 (SAS)

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This document pertains to: :

City of New York v. :  
Amerada Hess, et al., :

No. 04 Civ. 3417 :

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PITMAN, United States Magistrate Judge:

The following constitutes my rulings on the objections, other than relevance, to the excerpts of the deposition testimony of Steven R. Berlin, David R. Hayward, Eugene R. Mancini, James A. Mixter, Paul Naro, Barbara Price, Bob Simonson, M.W. Sprigg, Gary A. Stumpf and Ben Thomas designated by the parties to be offered in this matter. All relevance objections will be resolved by Judge Scheindlin at trial. Defendants' Joint Motion in Limine to Preclude Plaintiff from Introducing Evidence or Argument (1) Relating to Non-Parties against Defendants; or (2) Relating Only to One Defendants against Multiple Defendants raises a relevance objection, and, therefore, will be addressed by Judge Scheindlin at trial.

This Order constitutes my rulings on all objections asserted in response to the designated testimony, regardless of whether an objection is referenced in the explanations provided.

**Berlin, Steven R.**

***01-31-07 Session***

11:23 - 12:3	Overruled.
78:19 - 79:18	Overruled.
225:24 - 226:06	Overruled.
229:2-10	Overruled except for relevance objection which is reserved for Judge Scheindlin.
272:19 - 273:05	Reserved for Judge Scheindlin.
273:06-15	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
281:19 - 282:13	Sustained as to 281:23 - 282:3; counsel cannot testify. Objection to the balance of the testimony overruled except to the relevance objection which is reserved for Judge Scheindlin.
297:7-10	Sustained as to 297:7-10; counsel cannot testify. Objection to the balance of the testimony overruled except to the relevance objection which is reserved for Judge Scheindlin.

***02-02-07 Session***

631:24 - 632:13	Sustained as to 632:1-05; counsel cannot testify. Objection to the balance of the testimony overruled except to the relevance objection which is reserved for Judge Scheindlin.
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**Hayward, David R.**

***08-28-07 Session***

32:16 - 33:02	Sustained.
52:01-10	Sustained.
58:04-13	Sustained.
65:01-10	Sustained.
70:12-16	Sustained.
76:02-12	Overruled.
95:10-15	Sustained.
110:10-18	Reserved for Judge Scheindlin.
111:21-24	Reserved for Judge Scheindlin.
112:05-10	Sustained.
112:11-16	Sustained.
113:10-14	Sustained.
148:10-22	Sustained.
151:24	Sustained.

**Mancini, Eugene R.**

***06-28-00 Session***

14:9 - 16:15	Overruled.
17:1-8	Overruled.
18:12 - 19:11	Overruled.
20:4-21	Sustained.
21:12-24	Sustained.

55:08-14	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
56:14-25	Overruled except for relevance objection which is reserved for Judge Scheindlin.
57:08-22	Overruled except for relevance objection which is reserved for Judge Scheindlin.
67:04-16	Overruled.
68:1-5	Overruled.
80:13-21	Sustained.
83:9-20	Overruled.
83:22 - 84:17	Overruled.
88:7-15	Reserved for Judge Scheindlin.
97:17 - 98:6	Overruled except for relevance objection which is reserved for Judge Scheindlin.
99:08 - 99:19	Overruled.
99:20 - 100:25	Overruled.
101:17 - 103:10	Sustained.
103:12 - 103:21	Overruled.
108:17-23	Sustained.
121:10-15	Overruled.
121:17 - 122:16	Overruled.
123:1-7	Sustained.
132:17-133:5	Overruled.
134:18-25	Sustained.
137:9-21	Overruled.

165:8 155:4 Overruled as 165:8-12; sustained as to the balance of the designated testimony.

184:6-17 Sustained.

**03-20-01 Session**

20:15 - 21:03 Sustained.

32:21 - 33:03 Sustained.

33:4-14 Reserved for Judge Scheindlin.

48:21 - 49:14 Sustained.

118:05 - 119:20 Sustained; counsel is attempting to testify.

119:21 - 120:21 Overruled.

**10-25-01 Session** (Trial Transcript)

2289:27 - 2291:4 Overruled.

2305:9-20 Overruled.

2307:2-18 Overruled.

2315:1 - 2316:11 Sustained; counsel is merely reading a document and asking the witness to affirm that counsel's reading is accurate. This is not intended as a ruling on the admissibility of the document.

2320:24 - 2321:7 Overruled.

**06-30-09 Session**

209:12 - 210:15 Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.

213:04-10 Sustained.

214:7018 Overruled.

219:10-19 Overruled.

220:3-21	Sustained. This is <u>not</u> intended as a ruling on the admissibility of the document.
225:10 - 226:7	Overruled except sustained as to counsel's colloquy.
226:8-17	Overruled except sustained as to counsel's colloquy.
226:19-22	Overruled except sustained as to counsel's colloquy.
246:24 - 247:7	Overruled.
247:16 - 248:17	Overruled except sustained as to counsel's colloquy.
282:10-22	Overruled except sustained as to counsel's colloquy.
282:24 - 283:10	Overruled.
310:23 - 311:19	Overruled.

**Mixter, James A.**

***09-21-00 Session***

21:1-12	Overruled.
43:2-12	Plaintiff's objection sustained as to everything after "correct" in line 2.
52:19 - 53:21	Sustained.
65:22 - 66:4	Sustained.

**Naro, Paul**

***08-09-00 Session***

23:11 - 24:10	Sustained.
25:2-6	Overruled.
26:11-20	Sustained.
27:3 - 28:8	Sustained except as to 28:5-8.

29:6-9	Sustained.
30:6-8	Sustained.
30:9-12	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
30:13-15	Sustained.
30:16-19	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
30:20-22	Sustained.
34:18-23	Overruled.
40:25 - 41:11	Sustained.
42:1-5	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
42:6-8	Sustained.
49:14-17	Overruled.
49:18-22	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
49:23 - 50:4	Sustained.

**Price, Barbara**

***08-09-06 Session***

63:16 - 64:5	Overruled.
66:22 - 67:10	Overruled.
69:17-19	Sustained.
71:17 - 72:8	Overruled.
106:22 - 107:17	Sustained.

108:12 - 109:12	Overruled.
126:1-8	Reserved for Judge Scheindlin.
140:24 - 141:19	Overruled; relevance objection reserved for Judge Scheindlin.
159:15 - 160:15	Overruled; relevance objection reserved for Judge Scheindlin.
185:14 - 186:5	Overruled; relevance objection reserved for Judge Scheindlin.
195:6-15	Overruled; relevance objection reserved for Judge Scheindlin.
195:16 - 196:6	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
196:7 - 196:18	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
213:14 - 214:6	Overruled.
233:12 - 233:18	Overruled; relevance objection reserved for Judge Scheindlin.
236:3-21	Overruled.
279:1-11	Overruled.
279:12-17	Sustained.

**Simonson, Bob**

***07-22-99 Session***

7:22 - 8:4	Sustained.
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**Sprigg, M.W.**

***11-17-00 Session***

45:18-25	Overruled.
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36:01-16	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
51:12 - 52:01	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
59:10 - 59:25	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
67:24 - 68:06	Overruled.
72:05 - 73:01	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
73:12 - 73:22	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
73:23 - 75:13	Sustained.
75:14 - 75:21	Sustained.

**Stumpf, Gary A.**

***03-22-07 Session***

50:15-19	Overruled.
51:20 - 52:05	Overruled.
53:13-17	Overruled.
53:24 - 54:02	Overruled.
105:24 - 106:16	Overruled.
110:23 - 111:2	Overruled.
113:05 - 113:12	Overruled.
119:14 - 120:03	Overruled.
120:05-12	Overruled.

120:17-24	Sustained.
121:05-12	Sustained.
122:01-07	Overruled.
122:09-13	Overruled.
124:17-21	Overruled.
125:21 - 126:02	Overruled.
126:08-24	Overruled.
129:17 - 130:09	Overruled.
130:10-15	Overruled.
131:09-16	Overruled.
134:10-16	Overruled.
34:18-23	Overruled.
138:01-16	Overruled.
138:19-22	Overruled.
139:20 - 140:05	Overruled.

**Thomas, Ben**

***11-15-00 Session***

22:23 - 23:9	Overruled except for relevance objection which is reserved for Judge Scheindlin.
23:22-24	Overruled.
56:8-14	Sustained
56:21 - 59:16	Overruled.
62:18-21	Overruled.
70:11 - 71:8	Overruled.
74:4 - 75:18	Overruled.

78:4-13	Overruled.
79:14 - 80:8	Overruled.
92:8-15	Overruled.
113:1-8	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
113:21 - 114:7	Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.
117:21 - 119:1	Sustained as to 117:21 - 118:3; asking the witness to acknowledge that certain words are set forth in a document has no probative value. Objection to the remaining testimony overruled.
128:20 - 129:19	Sustained as to 128:20-24 and 129:8-19; asking the witness to acknowledge that certain words are set forth in a document has no probative value. Objection to the remaining testimony overruled.

**10-09-01 Session**

1082:27 - 1083:10	Overruled.
1086:15-19	Overruled.
1086:20-21	Overruled.
1090:25 - 1091:2	Overruled.

**10-10-01 Session**

1139:4-10	Overruled.
1158:4 - 1159:3	Sustained as to 1158:4-21 and 1158:27 - 1159:3; asking the witness to acknowledge that certain words are set forth in a document has no probative value. Objection to the remaining testimony overruled.

1165:20 - 1165:23 Sustained; asking the witness to acknowledge that certain words are set forth in a document has no probative value.

Dated: New York, New York  
August 20, 2009

SO ORDERED

  
HENRY PITMAN  
United States Magistrate Judge

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